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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/340,713 | 06/29/1999 | TIMOTHY DAVID JOSEPH STAMPER | RARP113009 | 4261 |

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| EXAMINER | |
|---|---|
| ANYA, CHARLES E | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2126 | 16 |

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PRG

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/340,713 | JOSEPH STAMPER ET AL. | |
| | Examiner | Art Unit | |
| | Charles E Anya | 2126 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3/ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *02 September 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3, 5 - 7, 9, 10, 13, 14, 16 – 20, 22 – 28, 30, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyamoto et al.**

As to claim 1, Miyamoto teaches system for sharing data ("...game system..." Col. 6 Ln. 22 – 36), a Control Unit (Control Unit 10 Col. 7 Ln. 26 – 44), a Processor (CPU 11 Col. 7 Ln. 26 – 37), a Memory (RAM 11/ROMa 15/RAM 15b Col. 7 Ln. 26 – 44), the memory storing information pertaining to a first program ("...first-machine game software..." Col. 7 Ln. 1 – 4) that was previously executed by the processor ("...backup data..." Col. 6 Ln. 22 – 36, Ln. 61 – 67), a Data Storage Medium (Game Cartridge 25 Col. 6 Ln. 61 – 67, Col. 7 Ln. 1 – 4), a Second Program ("...a second-machine game program..." Col. 6 Ln. 22 – 36, Ln. 61 – 67, Col. 7 Ln. 1 – 4), retrieving information pertaining to the first program/utilizing the information pertaining to the first program with the execution of the second program ("Using..." Col. 6 Ln. 29 – 36, Ln. 61 – 67).

As to claim 3, Miyamoto teaches identifying information pertaining to the second program for sharing with the first program ("...execution in association..." Col. 6 Ln. 29

– 36) and requesting storage of the information pertaining to the second program in the memory for retrieval by the first program (Although this step is not explicitly spelt out in using the second-machine game program to play a game by the backup data, the first program could be said to retrieve the second program (second-machine game program) Col. 6 Ln. 61 – 67).

As to claim 5, Miyamoto teaches the memory as a nonvolatile random access memory ("...non-volatile memory..." Col. 7 Ln. 60 – 67).

As to claim 6, see the rejection of claims 1 and 3.

As to claim 7, see the rejection of claim 1.

As to claims 9 and 10, see the rejection of claim 3.

As to claim 13, Miyamoto teaches a First Game Cartridge/a First Video Game Program (Game Cartridge 15/ "...first-machine game software..." Col. 6 Ln. 61 – 67, Col. 7 Ln. 1 – 4, Ln. 37 – 67, Col. 8 Ln. 1 – 19) and Second Game Cartridge/a Second Video Game Program (Game Cartridge 25/"...second-machine game program..." Col. 6 Ln. 29 – 36, Ln. 61 – 67, Col. 7 Ln. 1 – 4, Col. 9 Ln. 1 – 29).

As to claim 14, Miyamoto teaches the first video game program/first event/status and the status affecting the implementation of the second video game program ("...the backup data gained..." Col. 10 Ln. 7 – 67: NOTE: The backup data gained from playing the first machine is the status used in the implementation of the second game program), altering the performance of the second video game program/producing a second event having a status ("...further backup data..." Col. 10 Ln. 55 – 67) and storing the second event in the memory ("...stored in the Ram 26..." Col. 10 Ln. 55 – 67).

As to claim 16, Miyamoto teaches retrieving the second event from memory/utilizing the status of the second event to alter the performance of the first video game program ("...read out..." Col. 11 Ln. 1 – 7: NOTE: Although not explicitly taught the altering of the performance of the first video game program is inherent when the backup data is written for updating into the RAM 15b since the implementation of the data in RAM 15b is performed when first machine 10 is playing).

As to claim 17, claim 5 covers claim 17 except for the first and second game cartridges that are connected to and removed from the processor while the processor is power on.

Miyamoto teaches the first and second game cartridges that are connected to and removed from the processor while the processor is power on since the first and second cartridges could be removed when processor is still on.

As to claims 18 and 25, see the rejection of claim 5.

As to claims 19, 28 and 33, see the rejection of claim 1.

As to claims 20 and 32, see the rejection of claims 1 and 3.

As to claim 22, Although the step of setting a flag in the memory to indicate the status of an event pertaining to the first data storage medium is not explicitly taught the fact that the backup data stored in RAM 15b of cartridge 15 could be transferred to the second-machine 20 (Col. 13 Ln. 31 – 40) inherently entails that there must be an indicator (flag) of an availability of backup data to be transferred to the second-machine.

As to claim 23, Miyamoto teaches the step of setting a flag in the memory to indicate the status of an event pertaining to the second data storage medium ("...determined..." Col. 14 Ln. 52 – 67).

As to claim 24, see the rejection of claim 17.

As to claim 26, Miyamoto teaches the two data storage media as data cartridges (Game Cartridge 15/Game Cartridge 25 Col. 6 Ln. 61 – 67, Col. 7 Ln. 1 – 4).

As to claim 27, see the rejection of claim 13.

As to claim 30, see the rejection of claim 3.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 2, 8, 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,334,815 B2 Miyamoto et al. in view of U.S. Pat. No. 6,042,478 to Ng.**

As to claim 2 Miyamoto as applied in claim 1, does not teach verification of the validity of the retrieved information before utilizing it.

Ng teaches the verification of the validity of the retrieved information before utilizing it (Block 505, Col. 6, Ln. 62 – 67, Col. 7, Ln. 1 – 12). It would have been obvious to apply

the teaching of Ng to the system of Miyamoto. One would have been motivated to make such modification to provide cartridge authentication (Col. 6, Ln. 62 – 66).

As to claims 8, 11 and 29, see the rejection of claim 2.

**Claims 4, 12, 15, 21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,334,815 B2 to Miyamoto et al.**

As to claim 4, claim 3 covers claim 4 except for third program.

It would have been obvious to include a third program by introducing a third machine that includes a game cartridge because it would allow more data to be backed up for use in a second-machine.

As to claim 15, see the rejection of claims 4 and 14.

As to claim 12, see the rejection of claim 4.

As to claims 21 and 31, see the rejection of claim 4.

***Response to Arguments***

3. Applicant's arguments filed 9/2/03 have been fully considered but they are not persuasive.

Applicant argues that the Miyamoto prior art reference "requires two game machines and multiple memories" and as such provides a complex multiple processor system. This feature of Miyamoto according to the argument is in contrast to applicant's invention.

The invention **as claim d** does not exclude the inclusion of multiple game machines and memories and therefore does not make the rejection defective.

Applicant also argues that the Ng prior art reference discloses verification of the authenticity of a cartridge but does not disclose the verification of the validity of retrieved information before utilizing the retrieved information. Examiner strongly disagrees. Drawing Applicant's attention to column 6 lines 66 – 67 through column 7 lines 1 – 63, Ng clearly discloses the verification of the validity of retrieved information before utilizing the retrieved information by **reading** the content of the cartridge and determining the validity of the read content. If the read content is not valid the cartridge is rendered inactive (Block 506), thus negating Applicant's argument.

Assume for a moment that Applicant's argument is valid, that is, that the Ng prior art reference discloses verification of the authenticity of a cartridge but not its content, which is not the case. How would a cartridge be verified without verifying its content? The Examiner thinks otherwise, the verification of the authenticity of the cartridge in essence verifies its content.

As for the rejection of claim 7, its rejection is the same as the rejection of claim 6.

As for Applicant's argument that the second-machine game program that executes in association with the first-machine game/first-machine game program as taught by Miyamoto is different from the sharing of information between a first and second programs of the present application.

Merriam Webster's collegiate dictionary in one of its description of association/associate reads as follows: "to combine or join with other parts...closely connected (as in function

or office) with another". When an entity associates or combines or closely connects with another entity these entities are undoubtedly sharing or communicating information or function.

This notwithstanding the Miyamoto prior art reference discloses the sharing of backup data between a first and second program (column 6 lines 23 – 35).

Applicant also argues that the Miyamoto prior art reference does not teach sharing information between two programs implemented by a processor. The Examiner disagrees.

The fact that Miyamoto teaches a first-machine 10 that includes a processor and a second-machine 20 that includes another processor does not negate the fact that the processor of the second-machine 20/program reads data from the first-machine 10/program (column 10 lines 7 – 32), thus permitting the sharing of information between the first and second programs.

This notwithstanding column 7 lines 38 – 44 shows that the cartridge 15 could be connected to the second-machine 20 via a connector, leaving out the processor of the first-machine game.

As for Applicant's argument about claim 4 not reciting a third machine that includes a game cartridge, the third machine is used here to show that a third machine includes a third program that would share information with a second program/machine.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E Anya whose telephone number is (703) 305-3411. The examiner can normally be reached on M-F (8:30-5:30) First Friday off.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Charles E Anya
Examiner
Art Unit 2126